

House Bill 132 (AS PASSED HOUSE AND SENATE)

By: Representatives Stephens of the 164th, Keen of the 179th, Carter of the 159th, and Bryant of the 160th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 52 of the Official Code of Georgia Annotated, relating to state waters, ports,
2 and watercraft, so as to revise provisions relating to state waters and navigability; to change
3 the number of pilots for certain ports and waters; to change certain provisions relating to
4 removal and storage of vessels and procedures therefor; to change certain provisions relating
5 to authority of peace officers to cause removal of unattended vessels and duties relative
6 thereto; to provide for certain administrative actions against owners of vessels that have been
7 removed and not redeemed; to provide for certain administrative actions against owners of
8 vessels that have been left unattended in public waters or on public property; to provide for
9 related matters; to provide an effective date; to repeal conflicting laws; and for other
10 purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 52 of the Official Code of Georgia Annotated, relating to state waters, ports, and
14 watercraft, is amended by revising Code Section 52-6-31, relating to numbers of pilots, as
15 follows:

16 "52-6-31.

17 The number of licensed pilots shall not exceed ~~17~~ 21 for the port of Savannah, three for the
18 port of Doboy and Darien, ~~six~~ eight for the port of Brunswick, two for the Great Satilla
19 River, and two for the port of St. Marys."

20 **SECTION 2.**

21 Said title is further amended by revising Code Section 52-7-71, relating to removal and
22 storage of vessels and procedures therefor, as follows:

23 "52-7-71.

24 (a) Any person who removes a vessel from public property or public water at the request
25 of a law enforcement officer or stores such vessel shall, if the owner of the vessel is

1 unknown, seek the identity of and address of the last known registered owner of such
2 vessel from the law enforcement officer requesting removal of such vessel or such officer's
3 agency within 72 hours of removal.

4 (b) Any person who removes a vessel from private property or private waters at the request
5 of the property owner or stores such vessel shall, if the owner of the vessel is unknown,
6 notify in writing a local law enforcement agency of the location of the vessel, the vessel
7 ~~registration~~ certificate of number, and the ~~license~~ hull identification number, model, year,
8 and make of the vessel, if known or if readily ascertainable, within 72 hours of the removal
9 of such vessel and shall seek from the local law enforcement agency the identity and
10 address of the last known registered owner of such vessel and any information indicating
11 that such vessel is a stolen vessel.

12 (c) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code
13 section is determined to be a stolen vessel, the local law enforcement officer or agency
14 shall notify the Georgia Crime Information Center and the owner, if known, of the location
15 of such vessel within 72 hours after receiving notice that such vessel is a stolen vessel.

16 (d) If any vessel removed under conditions set forth in subsection (a) or (b) of this Code
17 section is determined not to be a stolen vessel or is not a vessel being repaired by a repair
18 facility or is not being stored by an insurance company providing insurance to cover
19 damages to the vessel, the person removing or storing such vessel shall, within seven
20 calendar days of the day such vessel was removed, notify the owner, if known, by certified
21 or registered mail or statutory overnight delivery of the location of such vessel, the fees
22 connected with removal and storage of such vessel, and the fact that such vessel will be
23 deemed abandoned under this article unless the owner redeems such vessel within 30 days
24 of the ~~day~~ date such vessel was removed.

25 (e) If the person identified as the owner fails to redeem such vessel as described in
26 subsection (d) of this Code section, or if a vessel being repaired by a repair facility or being
27 stored by an insurance company providing insurance to cover damages to the vessel
28 becomes abandoned, the person removing or storing such vessel shall, within seven
29 calendar days of the day such vessel became an abandoned vessel, give notice in writing,
30 by sworn statement, to the Department of Natural Resources and the Georgia Bureau of
31 Investigation, stating the vessel ~~registration~~ certificate of number, the ~~license~~ hull
32 identification number, the fact that such vessel is an abandoned vessel, the model, year, and
33 make of the vessel, if known or if readily ascertainable, the date the vessel became an
34 abandoned vessel, the date the vessel was removed, and the present location of such vessel
35 and requesting the name and address of all owners, lessors, lessees, security interest
36 holders, and lienholders of such vessel. If a person removing or storing the vessel has
37 knowledge of facts which reasonably indicate that the vessel is registered or titled in a

1 certain other state, such person shall check the vessel records of that other state in the
2 attempt to ascertain the identity of the owner of the vessel.

3 (e.1)(1)(A) Upon notice to the Department of Natural Resources as described in
4 subsection (e) of this Code section, then the commissioner may revoke, suspend, deny,
5 or refuse to renew any vessel certificate of number or commercial fishing boat license
6 required by this title or Title 27 which is held by or has been applied for by the person,
7 until all fees connected with removal and storage of the vessel have been paid and any
8 lien acquired under Code Section 52-7-73 for such fees has been satisfied. The person
9 shall be notified of the proposed order for revocation, suspension, denial, or nonrenewal
10 personally or by a letter sent by certified mail or statutory overnight delivery to the
11 name and address indicated on the application for the certificate of number or license,
12 or both. The proposed order for revocation, suspension, denial, or nonrenewal shall
13 become final 30 days after issuance if not appealed as provided in this paragraph.

14 (B) Any person whose vessel certificate of number or commercial fishing boat license
15 is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall
16 have the right to enter an appeal in the superior court of the county of his or her
17 residence or in the Superior Court of Fulton County. Such appeal shall name the
18 commissioner as defendant and must be filed within 30 days from the date the notice
19 of the proposed order was sent. The person filing the appeal shall neither be required
20 to post any bond nor to pay the costs in advance. If the person so desires, the appeal
21 may be heard by the judge at term or in chambers or by a jury at the first term. The
22 hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any
23 orders or acts of the department.

24 (2)(A) Upon notice to the Department of Natural Resources as described in
25 subsection (e) of this Code section and delivery of a copy of such notice to the state
26 revenue commissioner, then the state revenue commissioner may revoke, suspend,
27 deny, or refuse to renew any motor vehicle registration required by Title 40 which is
28 held by or has been applied for by the person, until all fees connected with removal and
29 storage of the vessel have been paid and any lien acquired under Code Section 52-7-73
30 for such fees has been satisfied. The person shall be notified of the proposed order for
31 revocation, suspension, denial, or nonrenewal personally or by a letter sent by certified
32 mail or statutory overnight delivery to the name and address indicated on the
33 application for the registration. The proposed order for revocation, suspension, denial,
34 or nonrenewal shall become final 30 days after issuance if not appealed as provided in
35 this paragraph.

36 (B) Any person whose motor vehicle registration is proposed for revocation,
37 suspension, denial, or nonrenewal under this paragraph shall have the right to enter an

appeal in the superior court of the county of his or her residence or in the Superior Court of Fulton County. Such appeal shall name the state revenue commissioner as defendant and must be filed within 30 days from the date the notice of the proposed order was sent. The person filing the appeal shall neither be required to post any bond nor to pay the costs in advance. If the person so desires, the appeal may be heard by the judge at term or in chambers or by a jury at the first term. The hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts of the department.

(f) Upon ascertaining the owner of such vessel, the person removing or storing such vessel shall, within five calendar days, by certified or registered mail or statutory overnight delivery, notify the owner, lessors, lessees, security interest holders, and lienholders of the vessel of the location of such vessel and of the fact that such vessel is deemed abandoned and shall be disposed of if not redeemed.

(g) If the identity of the owner of such vessel cannot be ascertained, the person removing or storing such vessel shall place an advertisement in a newspaper of general circulation in the county where such vessel was obtained or, if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a complete description of the vessel, its ~~license number and manufacturer's vessel identification numbers~~ certificate of number and hull identification number, the location from where such vessel was initially removed, the present location of such vessel, and the fact that such vessel is deemed abandoned and shall be disposed of if not redeemed.

(h) Information forwarded to the Georgia Bureau of Investigation as required by this Code section shall be placed by the bureau on the National Crime Information Center Network.

(i) Any person storing a vessel under the provisions of this Code section shall notify the Department of Natural Resources and the Georgia Bureau of Investigation if the vessel is recovered, is claimed by the owner, is determined to be stolen, or is for any reason no longer an abandoned vessel. Such notice shall be provided within seven calendar days of such event.

(j) If vessel information on the abandoned vessel is not in the files of the Department of Natural Resources, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vessel.

(k) Any person who does not provide the notice and information required by this Code section shall not be entitled to any storage fees.

(l) Any person who knowingly provides false or misleading information when providing any notice or information as required by this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a misdemeanor."

SECTION 3.

Said title is further amended by revising Code Section 52-7-72, relating to authority of peace officers to cause removal of unattended vessels and duties relative thereto, as follows:

"52-7-72.

(a) Any peace officer who finds a vessel which has been left unattended in or upon any public waters or other public property for a period of at least five days ~~shall be authorized to cause such vessel to be removed to a garage or other place of safety,~~ if such peace officer reasonably believes that the person who left such vessel unattended does not intend to return and remove such vessel, shall notify the Department of Natural Resources of such finding in accordance with subsection (d) of this Code section and may cause such vessel to be removed to a garage or other place of safety.

(b) Any peace officer who finds a vessel which has been left unattended in or upon any public waters or other public property ~~shall be authorized immediately to cause such vessel to be removed to a garage or other place of safety,~~ when such vessel poses a threat to public health or safety, shall notify the Department of Natural Resources of such finding in accordance with subsection (d) of this Code section and may immediately cause such vessel to be removed to a garage or other place of safety.

(c) Any peace officer who, under the provisions of this Code section, causes any vessel to be removed to a garage or other place of safety shall be liable for gross negligence only.

(d)(1) ~~Any peace officer or the law enforcement agency which causes a vessel to be removed to a garage or other place of safety or which is notified of the removal of a vessel from private waters or private property~~ who finds a vessel under such conditions as described in subsection (a) or (b) of this Code section shall within 72 hours from the time of ~~removal or notice and if the owner is unknown~~ such finding:

(A) Notify the Department of Natural Resources and the Georgia Crime Information Center of the description of the vessel, whether the vessel has been removed or not, and, if removed, the location to which such vessel has been removed; and

(B) If available on the Georgia Crime Information Center Network, determine the name and address of the last known registered owner of such vessel.

If vessel information is not in the files of the Department of Natural Resources, the department may require such other information or confirmation as it determines is necessary or appropriate to determine the identity of the vessel.

1 (2) If any such vessel is determined to be a stolen vessel, the local law enforcement
2 officer or agency shall notify the Georgia Crime Information Center and the owner, if
3 known, of the location of such vessel within 72 hours after receiving notice that such
4 vessel is a stolen vessel.

5 ~~(2)~~(3) If the vessel is removed and the name and address of the last known registered
6 owner of the vessel is obtained from the Georgia Crime Information Center, the peace
7 officer who causes the vessel to be removed shall, within three calendar days of removal,
8 make available to the person removing such vessel the name and address of the last
9 known registered owner of such vessel. If such information is not available, the peace
10 officer shall, within three calendar days of removal, notify the person removing or storing
11 such vessel of such fact."

12 SECTION 4.

13 Said title is further amended by adding a new Code section to read as follows:

14 "52-7-72.1.

15 (a)(1) If any vessel for which the Department of Natural Resources and the Georgia
16 Crime Information Center have received notice pursuant to subsection (d) of Code
17 Section 52-7-72 has not been removed and is determined not to be a stolen vessel, the
18 commissioner may proceed to take action against the owner as provided by this Code
19 section.

20 (2) If any vessel for which the Department of Natural Resources and the Georgia Crime
21 Information Center have received notice pursuant to subsection (d) of Code Section
22 52-7-72 has been removed, the provisions of this Code section shall not apply and the
23 provisions of Code Section 52-7-71 shall apply instead.

24 (b)(1)(A) Upon notice to the Department of Natural Resources as described in
25 subsection (d) of Code Section 52-7-72, then the commissioner may revoke, suspend,
26 deny, or refuse to renew any vessel certificate of number or commercial fishing boat
27 license required by this title or Title 27 which is held by or has been applied for by a
28 person who owns the vessel, until the owner restores and resumes operation of the
29 vessel or removes it from public waters or public property. The person shall be notified
30 of the proposed order for revocation, suspension, denial, or nonrenewal personally or
31 by a letter sent by certified mail or statutory overnight delivery to the name and address
32 indicated on the application for the certificate of number or license, or both. The
33 proposed order for revocation, suspension, denial, or nonrenewal shall become final 30
34 days after issuance if not appealed as provided in this paragraph.

35 (B) Any person whose vessel certificate of number or commercial fishing boat license
36 is proposed for revocation, suspension, denial, or nonrenewal under this paragraph shall

1 have the right to enter an appeal in the superior court of the county of his or her
2 residence or in the Superior Court of Fulton County. Such appeal shall name the
3 commissioner as defendant and must be filed within 30 days from the date the notice
4 of the proposed order was sent. The person filing the appeal shall neither be required
5 to post any bond nor to pay the costs in advance. If the person so desires, the appeal
6 may be heard by the judge at term or in chambers or by a jury at the first term. The
7 hearing on the appeal shall be de novo, but no appeal shall act as a supersedeas of any
8 orders or acts of the department.

9 (2)(A) Upon notice to the Department of Natural Resources as described in
10 subsection (d) of Code Section 52-7-72 and delivery of a copy of such notice to the
11 state revenue commissioner, then the state revenue commissioner may revoke, suspend,
12 deny, or refuse to renew any motor vehicle registration required by Title 40 which is
13 held by or has been applied for by a person who owns the vessel, until the owner
14 restores and resumes operation of the vessel or removes it from public waters or public
15 property. The person shall be notified of the proposed order for revocation, suspension,
16 denial, or nonrenewal personally or by a letter sent by certified mail or statutory
17 overnight delivery to the name and address indicated on the application for the
18 registration. The proposed order for revocation, suspension, denial, or nonrenewal shall
19 become final 30 days after issuance if not appealed as provided in this paragraph.

20 (B) Any person whose motor vehicle registration is proposed for revocation,
21 suspension, denial, or nonrenewal under this paragraph shall have the right to enter an
22 appeal in the superior court of the county of his or her residence or in the Superior
23 Court of Fulton County. Such appeal shall name the state revenue commissioner as
24 defendant and must be filed within 30 days from the date the notice of the proposed
25 order was sent. The person filing the appeal shall neither be required to post any bond
26 nor to pay the costs in advance. If the person so desires, the appeal may be heard by
27 the judge at term or in chambers or by a jury at the first term. The hearing on the
28 appeal shall be de novo, but no appeal shall act as a supersedeas of any orders or acts
29 of the department."

30 SECTION 5.

31 This Act shall become effective upon its approval by the Governor or upon its becoming law
32 without such approval.

33 SECTION 6.

34 All laws and parts of laws in conflict with this Act are repealed.